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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------|------------------|
| 09/274,157   | 03/22/1999  | JEFFREY S. MCVEIGH   | 42390.P7111                | 8057             |
| 7590<br>MICHAEL A PROKSCH<br>BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP<br>12400 WILSHIRE BOULEVARD 7TH FLOOR<br>LOS ANGELES, CA 900251026 |             |                      | EXAMINER<br>LEE, RICHARD J |                  |
|  |             |                      | ART UNIT<br>ILS            | PAPER NUMBER     |
| SHORTENED STATUTORY PERIOD OF RESPONSE   | MAIL DATE   | DELIVERY MODE        |                            |                  |
| 3 MONTHS   | 02/26/2007  | PAPER                |                            |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 09/274,157             | MCVEIGH ET AL.      |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Richard Lee            | 2621                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 November 2006.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4,6,7 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-4,6 and 7 is/are allowed.
- 6) Claim(s) 20-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 11/27/06.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

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1. The applicants' arguments from the amendment filed November 27, 2006 have been noted and considered, but are deemed moot in view of the following new grounds of rejections.

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 20-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 20 is considered non-statutory subject matter under 35 U.S.C. 101 since the preamble recites a machine readable physical storage medium, essentially defining a computer program per se, and does not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized (see MPEP 2106). And since dependent claims 21-25 are directed to further limitations based on the machine readable physical storage medium of claim 20, claims 20-25 as a whole do no fall within the statutory classes set forth in 35 U.S.C. 101.

4. Claims 1-4, 6, and 7 are allowed.

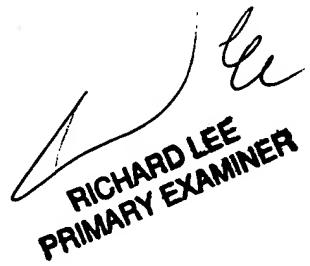
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (571) 272-7333. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m., with alternate Fridays off.



RICHARD LEE  
PRIMARY EXAMINER

Richard Lee/rl

2/9/07

